

FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JO ANNE STANIK

RESPONDENT

FINAL DECISION AND ORDER

94 REB 099

94 REB 369

95 REB 068

LS9708283REB

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Jo Anne Stanik
PO Box 335
Winter WI 54896

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Jo Anne Stanik, ("Stanik"), PO Box 335, Winter, WI 54896, is a real estate broker (DOB December 28, 1947) having State of Wisconsin License No. 37403, which was originally granted to her on April 16, 1986. Stanik was a sole proprietor doing business as Wisconsin Town and Country Realty.

FINDINGS OF FACT

94 REB 099, 94 REB 369, 95 REB 068

2. On or about March 30, 1995, Auditor Jeanne Pegelow performed an audit on Stanik's trust account. The account name is Wisconsin Town and Country Realty Trust Account, bank name Chippewa Valley Bank, account number 142455. This audit was performed at Attorney Harry Hertel's office, in Eau Claire, Wisconsin.

3. During the audit, it was determined that eight (8) 1994 deposits were never made to the trust account. The following details describe the specific violations of missing deposits:

A. Ledger #93-64, Gallis to Watson transaction, \$100 earnest money deposit never made to trust account.

B. Ledger #93-77, Thorson to Eickelkamp transaction, 7/15/94 closing proceeds deposit of \$3,708.01 was never made to the trust account.

C. Ledger #93-90, Stanik to Fuller transaction, no deposit was ever made to the trust account to cover the \$216.29 disbursements.

D. Ledger #94-06, Paikowski to Hanson transaction, 2/14/94 \$200 earnest money deposit never made to the trust account.

E. Ledger #94-11, Germanson to Glass transaction, 4/4/94 \$688.66 closing deposit was never made to the trust account.

F. Ledger #94-17, Skopek to Laufman transaction, 8/18/94, no deposit made to cover the late penalties for bank loan payoff, \$282.75.

G. Ledger #94-18, Lein to Loveless transaction, 4/22/94, \$100 earnest money; 6/3/94, \$100 Land Contract payment; and 7/5/94, \$100 Land Contract payment deposits never made to the trust account.

H. Ledger #94-24, Harshbarger to Smith transaction, 3/11/94, \$100 earnest money and 4/7/94, \$413.06 closing proceeds deposits never made to the trust account.

4. During the audit, it was determined that in 1994 five (5) improper disbursements were made to Stanik. The following details describe the specific violations:

A. Ledger #93-78, Nelson to Thorp transaction, 2/4/94, Check #2037 to WI Town & Country, \$880.

B. Ledger #93-88, Cimfel to Baley transaction, 9/7/94, Check #2240 to WI Town & Country, was written for \$1,325.64 more than received.

C. Ledger #94-10, Prem to Wolf transaction, 3/11/94, Check #2061 to WI Town & Country, \$1,450.

D. Ledger #94-13, Mleczko to Thorp transaction, 6/20/94, Check #2149 to WI Town & Country, was written for \$2,200 more than due.

E. Ledger #94-26, Thorp to Nalborczyk transaction, 7/12/94, Check #2170 to WI Town & Country, \$2,300.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

FINDINGS OF FACT

94 REB 099, 94 REB 369, 95 REB 068

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Jo Anne Stanik has violated:

A. Section 452.14(3)(i) of the Wisconsin Statutes and Section RL 18.14 and 18.031 of the Wisconsin Administrative Code by failing to deposit trust funds into the trust account within 48 hours of receipt.

B. Section 452.14(3)(i) of the Wisconsin Statutes and Section RL 18.14, 18.10 and 18.09 by creating a shortage in the trust account by making numerous improper disbursements.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that the Real Estate Board accepts the voluntary surrender of Jo Anne Stanik's real estate broker's license No. 37403.

IT IS FURTHER ORDERED, that case files 94 REB 099, 94 REB 369 and 95 REB 068 be, and hereby are closed.

Dated this 28th day of August, 1999.

WISCONSIN REAL ESTATE BOARD

By: 

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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JO ANNE STANIK

RESPONDENT.

STIPULATION

94 REB 099

94 REB 369

95 REB 068

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving this matter known as investigative files 94 REB 099, 94 REB 369 and 95 REB 068. MRS. STANIK ("Respondent") consents to the resolution of this matter by this Stipulation and the attached Final Decision and Order.

2. Respondent understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent has had the opportunity to consult with legal counsel regarding these matters and the legal implications of this Stipulation.

4. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts as set forth in the Findings of Fact, however, Respondent agrees that the Board may make the Findings of Fact and may reach the Conclusions set forth in the Conclusions of Law and may enter the Order attached hereto.

6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order. The matter shall then be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

STIPULATION

94 REB 099

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7. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondent agrees that Complainant's attorney, Gerald M Scanlan, may appear at any meeting of the Board with respect to the Stipulation and that his appearance is limited to statements in support of the Stipulation and to answer any questions the Board may have regarding the Stipulation. Respondent waives any right she may have to have notice of that meeting and to be present at the meeting of the Board.


9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


JOANNE STANIK, Respondent

4/14/97
Date


HARRY HERTEL, Respondent's Attorney

4/14/97
Date


GERALD M. SCANLAN, Attorney
Division of Enforcement
Charles J Howden

5/11/97
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Jo Anne Stanik,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On September 3, 1997, I served the Final Decision and Order dated August 28, 1997, LS9708283REB, upon the Respondent Jo Anne Stanik's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 412.

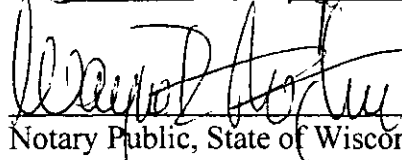
Harry Hertel, Attorney
1010 Oakridge Drive
P.O. Box 8155
Eau Claire WI 54702-8155



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 3rd day of September, 1997.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

September 3, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)